



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 3, 1991

Ms. Carol Estes Bray
Senior Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR91-462

Dear Ms. Bray:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12901.

You have received a request for the report of the audit performed by Municipal Administrative Services, Inc., of various hotels and motels regarding the hotel/motel tax. The report was prepared at the city's request. You assert that the information may be withheld pursuant to sections 3(a)(4) and 3(a)(10) of the Open Records Act as well section 111.006 of the Tax Code.

Section 3(a)(4) does not except the report at issue here. Section 3(a)(4) is designed to protect governmental interests in competitive commercial situations such as competitive bidding or competitive negotiations. Open Records Decision No. 593 (1991) (copy enclosed). In your letters you do not describe any injury to the government's competitive interests that would result from disclosure of the report, but only potential harm to the interests of the hotels and motels covered by the report. Thus, you may not withhold the report pursuant to section 3(a)(4). *See also* Open Records Decision No. 592 (1991), at 8 (section 3(a)(4) protects governmental interests and not the interests of private parties).

Section 111.006 of the Tax Code is also inapplicable to the requested report. Section 111.006 provides that certain information obtained by the state comptroller or the attorney general's office is confidential. You have not shown how the

requested report falls within the express terms of section 111.006, and thus, the city may not withhold the audit report based on that section.

You also assert that the requested report is excepted pursuant to section 3(a)(10) of the Open Records Act. In response, this office on August 28, 1991, notified representatives of the hotels and motels covered by the report. In our letters, we requested an explanation as to why portions of the report containing financial information about the hotels and motels were excepted from public disclosure. We also explained in those letters that the requested information would have to be released if we did not receive within two weeks written responses documenting the applicability of the section 3(a)(10) exception or any other exception to the requested information.

More than two weeks have elapsed since our request for documentation. None of the hotels or motels contacted have provided us with any explanation as to why the requested information should not be released. Your office has also not demonstrated the applicability of the section 3(a)(10) exception to the requested information. Thus, we have no basis for applying any exception to required public disclosure to the information, and you must release that information to the requestor. See Open Records Decision No. 552 (1990) (copy enclosed).

Very truly yours,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lb

Enclosures: Open Records Decision Nos. 552, 592, 593.

cc: Jim Steinberg
Caller-Times
P.O. Box 9136
Corpus Christi, Texas 78469

Best Western Sandy Shores
c/o Luxury Lodges, Inc.
P.O. Box 168
Texarkana, Texas 75501

Ramada Inn - Airport
Greyhound Racetrack Hotel
5501 Interstate Hwy. 37
Corpus Christi, Texas 78408

Holiday Inn Airport
c/o Winegardener & Hammons, Inc.
4243 Hunt Road
Cincinnati, Ohio 45242

La Quinta Motor Inn #477
c/o Tax Department
P.O. Box 790064
San Antonio, Texas 78279

La Quinta Motor Inn #702
(La Quinta - Corpus Christi #702)
c/o Tax Department
P.O. Box 790064
San Antonio, Texas 78279

Hershey Corpus Christi
(Corpus Christi Marriott)
900 N. Shoreline Blvd.
Corpus Christi, Texas 78401

Sheraton Inn (Marina)
(now Radisson Marina)
300 N. Shoreline
Corpus Christi, Texas 78401

Marriott
(now Sheraton Corpus Christi Bayfront)
707 N. Shoreline
Corpus Christi, Texas 78401